

Application No. 10/729,373  
Reply dated September 7, 2005  
Response to Office Action dated May 9, 2005

## **REMARKS/ARGUMENTS**

### **Description of amendments**

The specification has been amended to correct a typographic error.

Claims 1-5 are now pending and under examination. Applicant has amended claims 1 and 3. No new matter has been added.

### **Rejection under 35 U.S.C. §102**

Claims 1-3 and 5 were rejected under 35 U.S.C. §102(b) as being anticipated by *Miyagi* (U.S. Patent 4,207,737). For the following reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection.

Each of the rejected claims recites either a sensor for detecting mechanical displacement of the accelerator pedal or a step of sensing the position of the accelerator pedal. *Miyagi* does not teach these limitations.

The Examiner contended that *Miyagi* discloses the sensing of the position of an “accelerator pedal” (16). However, reference numeral 16 designates a clutch pedal, not an accelerator pedal. Needless to say, a clutch pedal is very different from an accelerator pedal. Additionally, the Examiner contended that column 3, lines 20-67 and column 4, lines 1-36 of *Miyagi* discloses the sensing of the position of an accelerator pedal. However, the cited portions of *Miyagi* do not even mention an accelerator pedal.

*Miyagi* discloses only the use of an on/off switch (17, 59), which cannot be used to measure the position of a pedal. In Applicant’s claimed invention, on the other hand, the position sensor senses the continuous movement of the accelerator pedal.

Therefore, claims 1-3 and 5 are not anticipated by *Miyagi*, because *Miyagi* does not teach a sensor for sensing the continuous movement of the accelerator pedal.

### **Rejection under 35 U.S.C. §103(a)**

Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Miyagi* in view of *Nagami* (U.S. Patent 5,388,403). For the following reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection.

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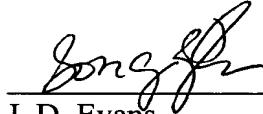
As discussed above, *Miyagi* does not teach or suggest certain limitations of independent claim 3. In addition, the Office Action did not allege that *Nagami* teaches or suggests these limitations. Therefore, the Office Action has not established that the cited references teach or suggest every element of claim 3. Since claim 4 depends from claim 3, the Office Action has not established that the cited references teach or suggest every element of claim 4. Consequently, it was improper to conclude that the cited references render claim 4 obvious.

In light of the foregoing remarks, this application is considered to be in condition for allowance, and early passage of this case to issue is respectfully requested. If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #037141.53041US).

Respectfully submitted,

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